

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LEONARD JONES,

Plaintiff,

ORDER

v.

08-cv-615-bbc

JIM SMITH, Corrections Officer, III,

Defendant.

In an order entered December 8, 2008, I screened plaintiff's complaint and granted him leave to proceed on his claim that defendant Jim Smith violated his First Amendment rights by harassing him in retaliation for his statements on matters of politics and warfare and his defense of a conduct report. In the same order, I denied plaintiff leave to proceed on a number of other claims.

Now plaintiff has moved for reconsideration of my conclusion that his substantive due process claim against defendant failed to state a claim upon which relief may be granted. In the order, I explained that a prison official violates substantive due process rights only if the alleged act amounts to an abuse of power so arbitrary that it "shocks the conscience." County of Sacramento v. Lewis, 523 U.S. 833, 846-47 (1998) (citing Rochin v. California, 342 U.S. 165, 172 (1952)). I then concluded that defendant's alleged acts did not meet this

high standard. Plaintiff disagrees; in particular, he contends that defendant's acts met the standard because defendant allegedly threatened to frame plaintiff if plaintiff ever tried to seek redress for defendant's harassment. However, plaintiff does nothing more than repeat the standard for substantive due process violations and assert that the actions alleged fall within that standard. In short, plaintiff has done nothing to persuade me that it was error to conclude that defendant's alleged actions were not so arbitrary as to "shock the conscience." Plaintiff's motion for reconsideration will be denied.

ORDER

IT IS ORDERED that plaintiff Leonard Jones's motion for reconsideration, dkt. #9, is DENIED.

Entered this 17th day of December, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge